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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,837	08/04/2003	Ralph M. Thomas	22650-RA	5259

30184 7590 07/13/2004

MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,837

Applicant(s)

THOMAS, RALPH M.

Examiner

Anne Marie M. Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/4/03</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claim 7 is objected to because of the following informalities: the claim must end in a period ".". Appropriate correction is required.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Birkestrand.

Birkestrand shows a pedal bicycle (Figure 1) with an electric hub motor for driving each of the front and rear wheels (see col. 4, lines 16-22) in response to user input.

3. Claims 1, 2, 8-10, 13, 15, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Pyntikov.

Pyntikov shows a pedal bicycle with motors 22 (see Figure 7) for driving front and rear wheels in response to user input. A user switch 60 allows for selection between front, rear or all wheel drive. A throttle is provided at the handlebars and a microprocessor

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pyntikov.

Pyntikov indicates that a throttle control is mounted to the handlebar and a motor controller is used. However, it is silent regarding a programmed microchip and twist-grip or lever throttle actuators for controlling the motors. However, the use of a programmable microprocessor in a motor controller has been common and would have been obvious at the time the invention was made, in order to effectively control the motors using a compact and flexible controller. It would also have been obvious to one of ordinary skill in the art to configure the throttle control as either a twist-grip or lever grip, as is old and well known, in order to control the speed of the vehicle in a manner familiar to drivers.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Birkestrand in view of Boisis.

Birkestrand is silent regarding a folding pedal mechanism.

Boisis shows a folding pedal mechanism.

It would have been obvious to one of ordinary skill in the art to make the Birkestrand pedals foldable, as taught by Boisis, in order to fold the pedals up for compact storage.

7. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pyntikov in view of Boisis.

Pyntikov is silent regarding folding pedals.

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Boisis shows a folding pedal mechanism.

It would have been obvious to one of ordinary skill in the art to make the Pyntokov pedals foldable, as taught by Boisis, in order to fold the pedals up for compact storage.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Li (2002/0148656) shows a front and rear wheel drive controller for a motor and pedal driven bicycle.

Hen (USPN 4,438,942) shows a folding pedal assembly.

Kerjan (WO 94/25333) shows a front and rear wheel drive bicycle with a twist grip motor controller.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

amb 7/8/04
Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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